

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JAYLA ALLEN, DAMON JOHNSON,
TREASURE SMITH, and THE PANTHER
PARTY,

Plaintiffs,

v.

WALLER COUNTY, TEXAS; THE
WALLER COUNTY COMMISSIONERS
COURT; JUDGE CARBETT “TREY” J.
DUHON III, in his official capacity as the
Waller County Judge; and CHRISTY A.
EASON, in her official capacity as the Waller
County Elections Administrator,
Defendants.

Civil Action No. 4:18-cv-3985

**PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
PLAINTIFFS’ PROPOSED POST-TRIAL FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND PLAINTIFFS’
POST-TRIAL MEMORANDUM OF LAW**

Individual Plaintiffs Damon Johnson and Treasure Smith and organizational Plaintiff The Panther Party (collectively, “Plaintiffs”) write to provide the Court with notice of a change in Texas law that exempts certain Texas counties, including Defendant Waller County, from the uniformity requirements in House Bill (“H.B.”) 1888 of 2019.

During the 2021 legislative session, the Texas Legislature passed H.B. 3107, which the Governor signed into law on June 15, 2021.¹ H.B. 3107 will become effective law on

¹ Plaintiffs attach the enrolled version of H.B. 3107 available on the Texas General Assembly’s website as **Exhibit A** to this notice; the bill’s text is also available at <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=87R&Bill=HB3107>.

September 1, 2021. *See* H.B. 3107, § 101. Previously, and as of trial, H.B. 1888 mandated that, in counties with more than 1,000 registered voters, early voting must be conducted at any temporary branch polling place (“TBPP”) on each weekday of the early voting period because those weekdays are when voting is required to be conducted at the main early voting polling place. Tex. Elec. Code §§ 85.005(a), 85.064(b); *see* ECF No. 175 at ¶¶ 463–65 (providing a more detailed overview of H.B. 1888’s requirements for TBPPs during early voting). But H.B. 3107 will exempt counties with populations under 100,000—including Waller County—from this requirement. *See* H.B. 3107, § 56. Instead, as of September 1, 2021, Texas law will explicitly provide that “[t]he schedules for conducting voting” in Waller County and other counties with populations under 100,000 “are not required to be uniform among the temporary branch polling places.” *Id.* H.B. 3107 will thus enlarge Waller County’s discretion to provide early voting at temporary branch polling places—including the Memorial Student Center (“MSC”)—on any days and during any hours of the period for early voting by personal appearance, so long as voting at the TBPP is conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days. *See id.*

H.B. 3107’s enactment, therefore, provides additional support for Plaintiffs’ arguments on H.B. 1888 and mootness. *See* ECF No. 100 at 2–6; ECF No. 176 at 112–18. Moreover, Waller County’s exemption from H.B. 1888’s requirements, once H.B. 3107 takes effect, may be relevant to the Court’s consideration of briefings both on H.B. 1888 and on Plaintiffs’ requested remedies. *Compare* ECF No. 175 at ¶¶ 463–65, *with* ECF No. 101 at 3–6, *and* ECF No. 178 ¶¶ 109–12; *see also* Day 7 Tr., 182:21–23 (Defendant Eason

testifying that, if Waller County were no longer subject to H.B. 1888, she would propose more early voting at the MSC).

Respectfully submitted on June 17, 2021,

/s/ Leah C. Aden

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2021, a true and correct copy of the foregoing document was served on all counsel of record through the Court's Electronic Case Filing (ECF) system.

/s/ Leah C. Aden
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